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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,178	03/27/2002	Masahiro Hibino	1163-0399P	5097
2292 7590 12/16/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER FAULK, DEVONAE				
ART UNIT 2614		PAPER NUMBER		
NOTIFICATION DATE 12/16/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/089,178

Applicant(s)

HIBINO ET AL.

Examiner

DEVONA E. FAULK

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) 2-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, regarding the newly recited claim language of abrupt attenuation such that the headphone volume is zero, filed 8/15./08, with respect to the rejection(s) of claim(s) 1,16,17 under 103(a). have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of MPEP 2114.
2. The applicant's arguments regarding the claim/specification objection regarding the cited language of "in a front seat area" is persuasive.

The examiner agrees that the operation means 10 is clearly shown in the front seat area (Figure 2) and that the specification discloses that the components of Figure 3 (the elected species) are the same as those shown in Figures 1 and 2 (page 19, lines 13-15).

3. Applicant's arguments, regarding Huemann failing to teach of an operating device mounted in the front seat area near the driver in which operation of this particular device by the driver affect the volume of headphones in the rear seat, filed 8/15/08 have been fully considered but they are not persuasive. The examiner cited Huemann's front controller as the operating means. Huemann discloses that the front controller 30 is operable by the driver or front passenger, Figure 1; column 2, lines 56-60; and a microprocessor (control device) that carries out its control functions to the rear control based on compatibility with commands from the front controls, column 2, lines 60-67; column 5, lines 12-15. When the front control command signals are

compatible with the rear control command signals, then the microprocessor proceeds to send out command functions including activate a speaker/headphone switch for selectively connecting the headphones; volume control 56 is provided for the headphones, volume control implicitly can attenuate or increase the input signal to the headphone; column 3, lines 33- 40). Therefore, the microprocessor controls volume control via switch 54 and thus the volume control 56 based on an operation performed by the front control (operation device).

4. Claims 2-15 are withdrawn from consideration.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huemann et al. (US 5,661,811) in view of Nicholson et al. (US 6,330,337) .

Regarding claim 1, Huemann discloses an onboard audio system comprising:

A plurality of audio devices (AM/FM tuner 10, tape player 12, CD player14, Figure 1; column 2, lines 43-46);

A front seat speaker and a rear seat speaker for outputting reproduced audio from said audio devices (front speakers 20, column 2, lines 48-50 and rear speakers 36, column 3, lines 34-36; column 4, lines 49-52; Figure 1);

A headphone for rear seat passengers for independently outputting a reproduced audio from one of said audio devices arbitrarily selected by the rear seat passengers through a rear seat control (headphones 38, column 3, lines 35-37; Figure 1).

Huemann teaches of a front controller 30;

An operating device mounted in a front seat area in a neighborhood of a driver for performing a predetermined operation by the driver (front controller 30 is operable by the driver or front passenger, Figure 1; column 2, lines 56-60);

A control device for outputting a first control signal based on what sort of operation is performed by said operating device (microprocessor 32 is programmed to carry out the commands of the front and rear controls, Figure 1; column 3, lines 4- 20; the microprocessor 32 carries out its control functions based on compatibility with the commands from the front control, column 2, lines column 1, line 66-column 2, line 6; column 2, lines 60-67; column 5, lines 12-15);

And a first signal attenuator for attenuator for attenuating an input signal to said headphone in response to a control signal from the operating means (if commands from the rear control are compatible with commands from the front control then the microprocessor proceeds to send out command functions including activate a speaker/headphone switch 54 for selectively connecting the headphones; volume control 56 is provided for the headphones, volume control implicitly can attenuate or increase the input signal to the headphone; column 3, lines 5- 40). The volume control will be able to attenuate or increase the signal once the switch 54 is selected to connect

the headphone to the audio source; therefore volume control 56 attenuates in response to a control signal from the front control (operation device).

Huemann fails to disclose a plurality of audiovisual devices.

Nicholson et al a vehicle that has a plurality of audio/visual devices (Figure 1; radio , column 1, lines 30-32, remotely mounted audio media player, DVD player, video game unit ,column 2, lines 40-44; reads on plurality of audio/visual devices). It would have been obvious to modify Huemann by replacing the audio devices with audiovisual devices in order to provide additional entertainment options to the passengers in the vehicle.

Huemann as modified discloses a signal attenuator for attenuating an input signal to said headphone.

Huemann fails to explicitly teach that explicitly of an abrupt attenuation such that the volume of the headphone is zero.

MPEP 2114....states that while features of an apparatus may be recited either structurally or functionally, claims <directed to >an< apparatus must be distinguished from the prior art in terms of structure rather than function. Also, a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Huermann as modified clearly has the structural limitations of the claim and the intended use of the attenuator cannot differentiate the claimed apparatus from the prior art.

Regarding claim 16, Huermann as modified by Nicholson discloses wherein said operating device is arranged on a front operation panel for said plurality of audio visual devices, operating functional buttons of said audio visual devices, operating functional buttons of said audio visual devices (Huermann front controller 30; Nicholson as applied above to claim 16). All elements of claim 16 are comprehended by the rejection of claim 1.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huermann et al. (US 5,661,811) in view of Nicholson et al. (US 6,330,337) in further view of Smith et al. (GB 2 246 688 A).

Regarding claim 17, Huermann as modified by Nicholson discloses an input signal to a headphone that is attenuated in response to said first control signal (Huermann, column 2, line 56-column 3, line 20). Huermann as modified by Chou fails to disclose that the input signal is attenuated by 10dB. Smith discloses attenuating an input signal to a headphone by 10dB (abstract). It would have been obvious to modify Huermann as modified by attenuated the input signal to the headphone by 10dB as taught by Smith in order to prevent a high noise level in the output signal.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVONA E. FAULK whose telephone number is (571)272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/
Examiner, Art Unit 2614